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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/478,006	01/05/2000	ARNAUD GOURDOL	P2413-515	1054

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EXAMINER

JOSEPH, THOMAS J

ART UNIT PAPER NUMBER

2174

DATE MAILED: 10/24/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

116

Office Action Summary

Application No.

09/478,006

Applicant(s)

GOURDOL ET AL.

Examiner

Thomas J Joseph

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 8-12-2002.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-52 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-7,9-12,14-26 and 28-52 is/are rejected.
- 7) ☒ Claim(s) 3, 8, 13, and 27 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☒ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

Oath/Declaration

1. The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by serial number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because:

Non-initialed and/or non-dated alterations have been made to the oath or declaration. See 37 CFR 1.52(c).

Corrections including those related to signature or country of citizenship on any oath must be initialed. Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

3. Claims 30 – 32 are rejected under 35 U.S.C. 102(e) as being anticipated by Nowlan (US 6,169,538).

Claim 30:

Nowlan teaches storing icons representative of a plurality of icon images, receiving a user command to display icons of varied sizes in said window, displaying said icons with different relative sizes within said window (fig. 8).

Claim 31:

Nowlan teaches different sizes of said icons based upon an object characteristic (fig. 8). The enlarged icons have a different characteristic than the unselected smaller icons.

Claim 32:

Nowlan teaches different sizes of said icons are based upon a user preference value given to each of said icons (fig. 8).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1 – 2, 4 – 7, 9 – 12, 14 – 26, 28 – 29, and 33 – 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nowlan (US 6,169,538) and Grossman (US 5,564,004).

Claim 1, 6, 11, 16, 19 and 22:

Nowlan discloses a method for varying the size of a plurality of icon images displayed in a display device based upon a preference value (col. 5, lines 23 – 30).

Nowlan teaches a software program that requires a computer readable medium.

Nowlan teaches selecting icons that are enlarged (col. 5, lines 23 – 30). This selection process includes selecting individual icons to perform variable icon sizing. Nowlan teaches generating icon images of different respective size, wherein the different sizes of the icon images are based upon said user preference value (col. 5, lines 23 – 30).

Nowlan teaches displaying said different sized icon images (col. 5, lines 23 – 30). The different and respective size consists of only two sizes, a larger size and a smaller size. Nowlan teaches a method for detecting the selecting of individual icons (fig. 8). Nowlan teaches storing icons representative of a plurality of icon images, receiving a user command to display icons of varied sizes in said window, displaying said icons with different relative sizes within said window (fig. 8). The enlarged icons are a selection of smaller icons that are being considered seriously by the user. Individual icons must be selected before achieving the step of enlargement. The figure further demonstrates generating icon images of different respective sizes, wherein the different sizes of the icon images are based upon said user preference value (fig. 8).

While Nowlan teaches displaying images using two distinct sizes, Nowlan fails to teach storing of icon data representative of varying the size of icon images or of “respective sizes” as cited by the Applicant including various sizes between the two distinct sizes. However, Nowlan alludes to varying the size of icons for signaling to the user icons that are more frequently selected. Grossman teaches using data for determining the size, intensity, and/or position of icons based on likeliness of user selection (fig. 10). Grossman demonstrates the storing of icon data representative of a

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plurality of icon images (fig. 1; col. 2, lines 10 – 20). Frequently used icons are enlarged and/or made more intense while less frequently selected icons are merged with other icons. It would have been obvious to one with ordinary skill in the art at the time of the invention to combine demonstrating the enlarging and/or intensifying a plurality of icon images taught by Grossman with the enlarging of icons images disclosed by Nowlan. Doing so allows users to access icons that are more likely to be accessed with greater ease. This greater ease allows for easier navigating through complex sets of icons during the selection process taught or suggested by Grossman (col. 1, lines 35 – 40).

Claim 2, 7 and 12:

Grossman teaches sorting icon images into an order based upon said designated preference values (col. 2, lines 40 – 50).

Claim 4, 9 and 14:

Nowlan demonstrates images of different respective sizes located within a window (fig. 8).

Claim 5, 10, and 15:

Nowlan demonstrates retrieving said icon image data from memory and scaling said icon image data in preparation for display on said display device (fig. 8). The enlarge icons associated with alphanumeric characters are examples of icon image data from memory that is displayed on a display device. All images must be processed inside a memory before being displayed on any output device.

Claim 17, 20, and 23:

Grossman demonstrates sorting of icon images into an order based up on said object characteristic (fig. 7 – 8). The formula for determining likeliness is a method for sorting. This is sorting icon images into an order based upon said object characteristic.

Claim 18, 21 and 24:

Grossman teaches determining size of icon by associating a maximum sized icon image with an object having one extreme value for the object characteristic (fig. 7 – 8). Icons that are less likely to be used are either made smaller or merged with other icons automatically. Icons less likely to be used are associated with a minimum sized icon image with an object having another extreme value for the object characteristic. Further, growing and shrinking icons based on likeliness of use involves assigning sizes to the remainder of said icons images with objects, in proportion to the objects associated with the maximum and minimum sized icons.

Claim 25:

Nowlan discloses a method for varying the size of a plurality of icon images displayed in a display device based upon a preference value (col. 5, lines 23 – 30). Nowlan teaches a software program that requires a computer readable medium. Nowlan teaches selecting icons that are enlarged (col. 5, lines 23 – 30). This selection process is selecting individual icons to perform variable icon sizing. Nowlan teaches generating icon images of different respective size, wherein the different sizes of the icon images are based upon said user preference value (col. 5, lines 23 – 30). This selection process is designating a user preference value for at least some of the plurality of icon images located within a container. The window displayed (fig. 8) is a

container. Nowlan teaches displaying said different sized icon images (col. 5, lines 23 – 30). The different and respective size can consist of only two sizes, a larger size and a smaller size. Nowlan teaches the detecting of selecting of individual icons (fig. 8).

Nowlan teaches storing icons representative of a plurality of icon images, receiving a user command to display icons of varied sizes in said window, displaying said icons with different relative sizes within said window (fig. 8). The enlarged icons are a selection of smaller icons that are being considered seriously by the user for selection. Individual icons must be selected before achieving the step of enlargement. The figure further demonstrates generating icon images of different respective sizes, wherein the different sizes of the icon images are based upon said user preference value (fig. 8).

While Nowlan teaches displaying images using two distinct sizes, Nowlan fail to teach storing of icons data representative of varying the size of icon images or of “respective sizes” as cited by the Applicant. Further, Nowlan fails to teach various size images between the two distinct sizes. However, Nowlan does allude to the need for varying the size of icons by allowing for the designating a greater amount of output screen real estate for more frequently selected icons. Grossman teaches using data for determining the size, intensity, and/or position of icons based on likeliness of user selection (fig. 10). Grossman also demonstrates the storing of icons data representative of a plurality of icon images (fig. 1; col. 2, lines 10 – 20). It would have been obvious to one with ordinary skill in the art at the time of the invention to combine demonstrating the storing of icons data representative of a plurality of icon images taught by Grossman with the enlarging of icons images disclosed by Nowlan. Doing so

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allows users to access icons that are more likely to be accessed with greater ease.

This greater ease allows for the easier navigating through complex sets of icons during the selection process (Grossman, col. 1, lines 35 – 40).

Claim 26:

Grossman demonstrates sorting of icon images into an order based up on said object characteristic (fig. 7 – 8). The formula for determining likeliness is a method for sorting. This is sorting icon images into an order based upon said object characteristic.

Claim 28:

Nowlan teaches a window. Such a window is considered a container (fig. 8).

Claim 29:

Nowlan teaches retrieving said icon image data from memory and scaling said icon image data in preparation for display on said display device (fig. 8). The plurality of icons is processed in memory before display. This is retrieving the said icon image data from memory and scaling said icon image data in preparation for display on said display device.

Claim 33, 37, and 39:

Nowlan and Grossman teach the rationale of claims 33, 37, and 39 in rejected claim 16.

Claims 34, 38, and 40:

Nowlan teaches different sized icon images located within a window (fig. 8).

Claim 35 and 36:

Nowlan teaches designating a step comprising the indication of relative size of selected icons (fig. 8). When the user selects a certain icon, the icons in the designated area are increased in relative and absolute size. The claim language fails to distinguish the difference between relative and absolute size.

6. Claims 41, 45, and 49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nowlan and Grossman as applied to claims 16, 19 and 22 above, and further in view of Ulrich et al (US 6,239,395).

Nowlan and Grossman do not disclose outputting data regarding the size, amount of memory used, number of files used, or any type of measure of how recently an object was added. However, Nowlan and Grossman do suggest the need for such information. Such information is useful to those who are responsible for performing maintenance and evaluating performance of computing equipment.

Claim 41, 45, and 49:

Ulrich teaches software that requires a method, apparatus, and a computer readable medium (col. 2, lines 49 – 58). Ulrich teaches windows that include an object definition that includes sizes (col. 2, lines 49 – 58). This use of sizes is a characteristic that includes size of the said object. Any size output associated with the output becomes a characteristic. It would have been obvious to one with ordinary skill in the art at the time of the invention to combine the object characteristic being the size of the said object Ulrich with the storing and resizing of icons representative of a plurality of icon images disclosed by Grossman and Nowlan. Doing so allows users to access and view internal information related to the objects corresponding with the said icons.

7. Claims 42 – 44, 49 – 48, and 50 – 52 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nowlan and Grossman as applied to claims 16, 19 and 22 above, and further in view of *Windows 95 Uncut* by Alan Simpson.

Nowlan and Grossman do not disclose outputting data regarding the size, amount of memory used, number of files used, or any type of measure of how recently an object was added. However, Nowlan and Grossman do suggest the need for such information. Such information is useful to those who are responsible for performing maintenance and evaluating performance of computing equipment.

Claim 42, 44, and 50:

Windows 95 teaches software that requires a method, apparatus, and a computer readable medium (p. 401). Windows 95 teaches an object characteristic being the amount of memory that the object uses (p. 401). The file items within the list represent objects that include the amount of memory they use. It would have been obvious to one with ordinary skill in the art at the time of the invention to combine the object characteristic being amount of memory that the object uses taught by Windows 95 with the storing and resizing of icons representative of a plurality of icon images disclosed by Grossman and Nowlan. Doing so allows users to access and view internal information related to the objects corresponding with the said icons.

Claim 43, 45, and 51:

Windows 95 teaches software that requires a method, apparatus, and a computer readable medium (p. 401). Windows 95 teaches an object characteristic being the number of files in the object (p. 401). It would have been obvious to one with

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ordinary skill in the art at the time of the invention to combine the number of files in the object taught by Windows 95 with the storing and resizing of icons representative of a plurality of icon images disclosed by Grossman and Nowlan. Doing so allows users to access and view internal information related to the objects corresponding with the said icons.

Claim 44, 46, and 52:

Windows 95 teaches software that requires a method, apparatus, and a computer readable medium (p. 401). Windows 95 teaches an object characteristic containing a date. This date is interpreted as being an object characteristic that measures how recently the object was added or amended (p. 401). It would have been obvious to one with ordinary skill in the art at the time of the invention to combine an object characteristic containing a date taught by Windows 95 with the storing and resizing of icons representative of a plurality of icon images disclosed by Grossman and Nowlan. Doing so allows users to access and view internal information related to the objects corresponding with the said icons.

Allowable Subject Matter

8. Claims 3, 8, 13, and 27 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

9. The following is a statement of reasons for the indication of allowable subject matter: Claims 3, 8, 13, and 27 teach the specific equation of $(\max - \min) / (N - 1)$ wherein N is the number of applications given a preference, min is the minimum icon size, and

max is the maximum icon size. Nowlan discloses a minimum and maximum size for icons (fig. 8) but fails to provide a preference for the number equation as taught by the Applicant. McComb (US 6,111,573) teaches dynamic sizing according to content (col. 7, lines 10 – 20) but fails provide a specific sizing formula as taught by the Applicant. Morgan teaches dynamically adding icons (col. 2, lines 35 – 42) and container control (col. 1, lines 45 – 50) but fails to teach icon sizing as taught by the Applicant. Grossman teaches icons disappearing and reappearing based on usage (fig. 8 and 10). Grossman can be interpreted as a type of growing and shrinking. Grossman fails to teach use of a maximum and minimum formula based on number of applications as taught by the Applicant.

Response to Arguments

10. Applicant's arguments filed 8-12-2002 have been fully considered but they are not persuasive.

The Applicant responds to the objection to the declaration issued by the Examiner by stating that an Oath cannot be altered after the said Oath has been filed. The Examiner responds by stating that the Applicants are required to file a new oath with each correction initialed. Each correction to an Oath including corrections to the form on which the Oath is written is required to have an initial.

The Applicant responds to the 35 USC 102 rejections of claims 30 – 32. The Applicant states to the Examiner that Nowlan fails to teach features that that are contained within claims 30 – 32. The said features include icons representative of a plurality of icons. The Examiner asserts that any icon including a GUI button is an image

that can be used for activating additional images. Nowlan however, fails to teach images of different "respective" sizes as cited by the Applicant in claim 1 and taught by Claim 1.

The Applicant responds to the 35 USC 103 rejections of claims 1 – 2, 4 – 7, 9 – 12, 14 – 26, 28, 29, and 33 – 40. The Applicant asserts that Nowlan fails to disclose or suggest storing icon data representative of a plurality of icon images as recited in the independent claims. The Applicant asserts that the Examiner fails to explain specifically how Nowlan and Grossman can be combined. The Examiner responds by stating that both Nowlan and Grossman demonstrate GUIs that use buttons or icons. Examiner also asserts that Nowlan and Grossman disclose or suggest storing icon data representative of a plurality of icon images. Grossman does teach a method for intensifying, enlarging, or at least emphasizing icons or buttons that meet the criteria for a greater likeliness of selection.

Do to at least the above reasons, the rejections of claims 1 – 40 remain standing. Further, the Examiner issues a new rejection for newly added claims 41 – 52.

Conclusion

11. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

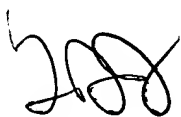
12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas J Joseph whose telephone number is 703-305-3917. The examiner can normally be reached Mondays through Fridays from 7:30 am to 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kristine Kincaid can be reached on 703-308-0640. The fax phone numbers for the organization where this application or proceeding is assigned are 703-746-7239 for regular communications and 703-746-7238 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

tjj

October 10, 2002



Kristine Kincaid
KRISTINE KINCAID
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